

APPENDIX A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Hans Klingemann)	
)	
Serial No. 10/008,955)	NATURAL KILLER
)	CELL LINES AND
Filed: December 7, 2001)	METHODS OF USE
)	
Art Unit: 1644)	
)	
Patent Examiner: Ronald B. Schwadron)	
)	
Attorney Docket No. 06-129PCT/US/CIP)	
)	
Confirmation No.: 5420)	
)	

STATEMENT OF HANS KLINGEMANN, M.D., Ph.D.,
REGARDING BIOLOGICAL MATERIAL DEPOSITS
IN ACCORDANCE WITH 37 C.F.R. §§ 1.801-1.809 IN CONNECTION WITH
U.S. PATENT APPLICATION NO. 10/008,955

I, Hans Klingemann, M.D., Ph.D., hereby declare that:

1. All statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. I am a Clinical Consultant to and member of the Board of Directors of Conkwest, Inc., the Applicant in the above-captioned pending application and submit this Statement pursuant to the requirements set forth in 37 C.F.R. §§ 1.801-1.809.

3. On information and belief, the unmodified and modified NK-92 cell lines referred to in the above-identified patent application were each deposited in the general collection of the American Type Culture Collection (ATCC), whose address is 10801 University Blvd., Manassas, VA 20110-2209, USA, on April 3, 1998 and received the following Accession Numbers:

NK-92 cell line: CRL-2407

NK-92 cell line modified with MFG-hIL-2 vector: CRL-2408

NK-92 cell line modified with pCEP4-LTR-hIL-2 vector: CRL-2409.

The cell lines were transferred to the patent depository of ATCC on April 4, 2005 and received the following Accession Numbers:

NK-92 cell line: PTA-6670

NK-92 cell line modified with MFG-hIL-2 vector: PTA-6671

NK-92 cell line modified with pCEP4-LTR-hIL-2 vector: PTA-6672.

A true copy of the original deposit receipt for this deposit is provided herewith at Exhibit 1.

4. I am the sole inventor of the cell lines having Accession Numbers CRL-2407, CRL-2408, and CRL-2409, referred to in Paragraph 3, *supra*, and which are referred to in the Substitute Specification filed herewith, Page 6, line 24 to Page 7, line 7, and Page 17, lines 22-26.

5. On information and belief, the modified NK-92 cell line deposit described in paragraph 3, *supra*, has been accepted for deposit under the terms of the Budapest Treaty On The

International Recognition Of Microorganisms For The Purposes Of A Patent Procedure, as evidenced by the Deposit Receipt provided in Exhibit 1.

6. On information and belief, Accession Numbers CRL-2407, CRL-2408, and CRL-2409 will be maintained at the above-mentioned public depository for a period that is at least: (a) 30 years from the date of deposit, (b) the enforceable life of any patent issuing from this application, or (c) a period of five years after the date of the most recent request for furnishing a sample of biological material, whichever is longest.

7. On information and belief, should the NK-92 cell line deposits having Accession Numbers CRL-2407, CRL-2408, or CRL-2409 become either nonviable or nonreplicable, the deposit shall be replaced.

8. Signed at Boston, MA, this 28 day of Oct., 2010.



Hans Klingemann, M.D., Ph.D.

Exhibit 1



10801 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

**BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE**

INTERNATIONAL FORM

**RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2**

To: (Name and Address of Depositor or Attorney)

Hans Klingemann, M.D., Ph.D.
1 Nassau Street #1501
Boston, MA 02111

Deposited on Behalf of: Hans Klingemann, M.D., Ph.D.

Identification Reference by Depositor:

Patent Deposit Designation

Cell line NK-92
Cell line NK-92MI
Cell line NK-92CI

PTA-6670
PTA-6671
PTA-6672

The deposits were accompanied by: a scientific description a proposed taxonomic description indicated above. The deposits were received April 4, 2005 by this International Depository Authority and have been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strains for 30 years.

The strains are available to the scientific public upon request as of April 4, 2005.

If the cultures should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace them with living cultures of the same.

The strains will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the cultures cited above were tested April 26, 2005. On that date, the cultures were viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Maria Harris
Marie Harris, Patent Specialist, Patent Depository

Date: May 25, 2005

cc: Gary Keller
Misty Gruber (Ref: Docket or Case No.: 09800410-0013)